

REMARKS/ARGUMENTS

Applicant appreciates the thorough examination of the present application, as evidenced by the first Official Action. The Official Action objects to Claims 2-6, 8-12, 14-18 and 20-24 for allegedly including an informality; the Official Action objecting to the preambles of respective the dependent claims. Although Applicant disagrees that the format of the preambles of the dependent claims somehow renders those claims improper, Applicant has amended the dependent claims per the suggestion in the Official Action to most expeditiously advance prosecution of the present application. In view of the foregoing amendments, Applicant respectfully submits that the objection to Claims 2-6, 8-12, 14-18 and 20-24 is overcome.

The Official Action then rejects all of the pending claims, namely Claims 1-24, under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 7,046,999 to Wu et al. As explained below, however, Applicant respectfully submits that the claimed invention is patentably distinct from Wu; and accordingly traverses the rejection of the claims as being anticipated by Wu. Nonetheless, in addition to the aforementioned amendments, Applicants have amended various ones of the claims to further clarify the claimed invention, including adding new Claims 25-28 to recite further patentable aspects of the present invention. In view of the amended claims and the remarks presented herein, Applicant respectfully requests reconsideration and allowance of all of the pending claims of the present application.

Briefly, Wu discloses a half-duplex wireless audio communication system for transmitting content and remote control signals between a content retention and distribution system (e.g., CD player) and a content reproduction terminal (e.g., headphones or speakers) over a half-duplex channel, such as an RF channel having the same frequency band. The wireless communication system includes a base station and remote station (attached to or integrated with the content reproduction terminal). The base station is for formatting and transmitting the content signal to the content reproduction terminal via the remote station. The remote station is for transferring the content signal from the base station to the content production terminal, as well as remote control signals from the content production terminal to the base station, via the half-duplex channel.

According to one aspect of the claimed invention, as reflected by amended independent

Claim 1, an apparatus is provided. As recited, the apparatus includes a processing element configured to send audio to a mobile terminal over an audio channel. The audio selectively includes voice communication and/or at least one or more coded tones, where the coded tone(s) are representative of one or more separate multimedia objects. In this regard, the processing element is configured to send the audio such that, when the audio comprises coded tone(s), the mobile terminal is configured to decode the coded tone(s) to thereby identify and present the multimedia object(s) represented thereby.

In contrast to amended independent Claim 1, Wu does not teach or suggest sending an audio coded tone representative of a separate multimedia object, or in turn, decoding the coded tone to identify and present the respective multimedia object. Wu does disclose that its content signal includes digitized audio signals and appended timing, identification and control semaphores or messages. Even considering this signal, however, Wu still does not teach or suggest that its content signal is itself a coded tone representative of a separate multimedia object, similar to the coded tone of amended independent Claim 1. That is, nowhere does Wu teach or suggest that its digitized audio includes a coded tone representative of a separate multimedia object, and which is decodable to drive presentation of that multimedia object. And even if one could argue that the timing, identification and control semaphores of Wu are representative of a separate multimedia object, nowhere does Wu teach or suggest that any of these semaphores include a coded tone.

Applicant therefore respectfully submits that amended independent Claim 1, and by dependency Claims 2-6 and 25, is patentably distinct from Wu. Applicant also respectfully submits that amended independent Claims 7, 13 and 19 recite subject matter similar to that of amended independent Claim 1, including sending an audio coded tone over an audio channel, or in turn, decoding the coded tone to identify and present a multimedia object represented by the respective tone. As such, Applicant respectfully submits that amended independent Claims 7, 13 and 19, and by dependency Claims 8-12, 14-18, 20-24 and 26-28, are also patentably distinct from Wu, for at least the reasons given above with respect to amended independent Claim 1.

For at least the foregoing reasons, Applicant respectfully submits that the rejection of Claims 1-24 as being anticipated by Wu is overcome.

CONCLUSION

In view of the amendments to the claims and the remarks presented herein, Applicant respectfully submits that the present application is in condition for allowance. As such, the issuance of a Notice of Allowance is therefore respectfully requested. In order to expedite the examination of the present application, the Examiner is encouraged to contact Applicant's undersigned attorney in order to resolve any remaining issues.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

Respectfully submitted,



Andrew T. Spence
Registration No. 45,699

Customer No. 00826
ALSTON & BIRD LLP
Bank of America Plaza
101 South Tryon Street, Suite 4000
Charlotte, NC 28280-4000
Tel Charlotte Office (704) 444-1000
Fax Charlotte Office (704) 444-1111
LEGAL02/30657798v1

ELECTRONICALLY FILED USING THE EFS-WEB ELECTRONIC FILING SYSTEM OF THE UNITED STATES PATENT & TRADEMARK OFFICE ON JANUARY 9, 2008.